

REMARKS

In response to the Office Action dated August 26, 2004, Applicants respectfully request reconsideration and withdrawal of the rejections of the claims.

Claims 11-16 were provisionally rejected on the basis of obviousness-type double patenting, in view of claims 1 and 8-12 of copending Application No. 09/843,757.

Pursuant to the response that was recently filed in the copending application, claims 11-16 have been canceled from this application to remove the basis for the provisional rejection.

Claims 1-10 were rejected under 35 U.S.C. § 103, on the grounds that they were considered to be unpatentable over the Craig et al patent (US 6,266,809) in view of the Tripp et al patent (US 6,516,337). For the reasons presented below, it is respectfully submitted that these two patents do not suggest the subject matter of claims 1-10 to a person of ordinary skill in the art. However, to further clarify the distinctive features of the invention, claims 1-10 have been canceled in favor of new claims 22-31.

The claimed invention is directed to the ability to execute commands on a remote device in the presence of a reboot process that occurs during the execution of the commands. For instance, one of the applications of the invention is the automated provisioning of computing devices on a network, e.g. servers. The provisioning process involves both the installation and configuration of software programs on the device. In some situations, it may be necessary to reboot the device as part of the provisioning process, before the final configuration of the software can be completed. The present invention provides a procedure whereby a reboot can be effected in the midst of the provisioning process, and permit the execution of commands to resume at the point in their sequence that was being carried out prior to the reboot.

In contrast, the Craig patent is directed to the updating of firmware on network computers (NCs). A characteristic of an NC is that it does not store software on a persistent basis. Rather, each time the NC boots up, it retrieves the operating system and application programs from a network server (see column 2, lines 3-7). The Craig patent discloses a procedure in which a reboot command is sent to an NC to cause it to return to the network server and retrieve new software that has been uploaded to the server. It can be appreciated that the reboot does not occur within the midst of a sequence of commands whose execution continues after the reboot is completed. Rather, the reboot terminates the

execution of any commands, and causes the NC to upload new software. It does not permit the user to continue at the point where he left off. In fact, the Craig patent explicitly waits for the user to cease use of the NC before initiating the update process (see Figure 4A, steps 322-326). As acknowledged in the Office Action, the Craig patent does not disclose the resumption of command execution once the reboot has completed.

It is respectfully submitted that the Tripp patent does not contain any disclosure that would overcome this distinction. The patent is directed to the indexing of Internet web sites. There is no apparent reason why a person of skill in the art would apply its teachings to the firmware update procedure of the Craig patent. It has nothing to do with NCs, particularly the updating of firmware on such devices. Nor does it have anything to do with reboot procedures.

The Office Action refers to the Tripp patent at column 35, lines 29-40. With reference to Figure 20, this portion of the patent discloses that updates from a message queue are not processed while an UpdateManagerService is unavailable, but that such processing resumes when the UpdateManagerService is brought up again. This is analogous to a situation where email messages are not delivered to users while an email server is down, but will begin to reappear once the server comes back up. There is no nexus between this teaching and Craig's procedure for updating firmware on an NC. For instance, the UpdateManagerService runs on a server, not on an end-user device such as a personal computer or NC. There is simply no suggestion in the either of the references to combine their respective teachings.

For at least this reason, therefore, it is respectfully submitted that the Craig and Tripp patents do not suggest the claimed subject matter to a person of ordinary skill in the art. They are directed to totally diverse objectives and areas of technology, and there is no apparent motivation to apply the teachings of one to the disclosure of the other.

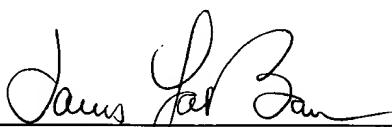
Reconsideration and withdrawal of the rejection is respectfully requested.

The Office Action states that no priority claims have been made. However, the opening sentence of the application explicitly states that priority is being claimed under 35 U.S.C. 120 to Application No. 09/699,329 filed October 31, 2000 and Application No. 09/699,353 filed October 31, 2000. It is respectfully submitted that the claimed subject

matter is fully supported by Application No. 09/699,329, and therefore the current application is entitled to an effective filing date of October 31, 2000.

Respectfully submitted,
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